Supreme Court, U. S.
FILED
DEC 27 1977
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-1091

MARTIN EPSTEIN,

Appellant,

vs.

CIVIL SERVICE COMMISSION, ET AL.,

Appellees.

ON APPEAL FROM THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

JURISDICTIONAL STATEMENT.

MARTIN EPSTEIN
5110 South Hyde Park Blvd.
Chicago, Illinois 60615
Pro Se

Gunthorp-Warren Printing Company, Chicago • FInancial 6-6565

CONTENTS

page

Jurisdictional Statement 1

Opinion Below 2

Jurisdiction 2

Statutes Involved 3

Questions Presented 11

Statement of the Case 14

Findings of Facts, Decisions or Opinions 19

1 - Violations of grievance procedures, due process, and free speech 19

2 - Unequal treatment under the law . . 22

3 - Other departures from the usual course of judicial proceedings . . . 24

Status of Professional Employees Under Two Mutually Exclusive Regulatory and Punitive Disciplines 38

Conclusion 43

APPENDIX

Opinion of the State Appeals Court 44

Report of Civil Service Commission Hearing 57

Appendix - 2 page

Report of Circuit Court, Cook County 58

Notice from Illinois State Supreme Court . . 59

Proof of Service: Notice of Appeal to the

United States Supreme Court 60

Certificate of Service 62

Certificate of Service of Revised Copies . . 63

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1977

No.

MARTIN EPSTEIN,

Appellant

v.

CIVIL SERVICE COMMISSION, et. al.,

Appellees.

On Appeal from The Appellate Court of Illinois

First Judicial District

JURISDICTIONAL STATEMENT

Appellant appeals from the opinion of the Appellate Court of Illinois, First Judicial District. This opinion was appealed to the State of Illinois Supreme Court, May 19, 1977. The Decision to deny the petition was given September 30, 1977. Appellant was not informed of a right to petition for a rehearing, until after the time for this petition had elapsed.

OPINION BELOW

The opinion of the Appeals Court, and denial of petition by the State Supreme Court are in the Appendix.

JURISDICTION

Jurisdiction is conferred upon this Court by 28 U.S.C. Sec. 1257 (2):

> . . where is drawn in question the validity of a statute of any state on the grounds of its being repugnant to the Constitution . . or laws of the United States, and the decision is in favor of its validity.

Appellant was discharged from employment as a psychologist in the Department of Mental Health, State of Illinois. The discharge was upheld by the Civil Service Commission, after a hearing. This was appealed to the Circuit Court of Cook County (under Adm. Review Act. Ill. Rev. Stat. Chapt. 110, Sec 264, et. seq.). The Circuit Court found there was no just cause for the discharge and reinstated Appellant with full back pay. The trial court specifically stated the evidence was "all in favor of the Plaintiff", and that Appellant was a dedicated and outstanding psychologist whose discharge was a "miscarriage of justice". The Appellate Court reversed the Circuit Court judgement, and affirmed the Civil Service Commission order. The State of Illinois Supreme Court denied a petition to review the case. A notice of Appeal was filed December 12, 1977.

STATUTES INVOLVED

The general issue is that professional people are under conflicting regulatory and punitive systems, the professional and the administrative. If professional people violate those professional standards and ethics which protect people from harmful or negligent practices, and if harm or negligence results, the professional can be punished under the law. If professional people are ordered by administrators to violate these standards and ethics, and, even if harm or negligence will result, the professional can be punished administratively for "insubordination", if such orders are not obeyed without question. This is an important question of law which has not been, but should be, settled by this court.

The specific regulation in question is a State of Illinois, Department of Personnel Rule, "Agency Disciplinary Guideline" (Rules 2-720 and 2-770).

> Violation of any of the following rules shall be grounds for immediate discharge or suspension pending discharge, under Rule 2-720 and 2-770 of the Department of Personnel rules . .
>
> (8) Insubordination by refusing to carry out supervisory instructions or to follow the lawful directives or policy of an agency supervisor.

This regulation was upheld by the Illinois Civil Service Commission and by the State Appeals Court.

> Respondent . . is required to do as his employer directs. Insofar as the employer determined attendance at meetings was more important than testing and evaluating residents (mental retardates), Respondent must, if he wishes to remain an employee . . bow to the orders of his employers, whether the employer's priorities are correct or incorrect. As long as there is no illegal act involved, the employee is required to follow orders given by the employer. (CSC p 36, sec. 144)*
>
> Individual employees cannot be allowed to question . . . (CSC p 37, sec 144)

---

* CSC - Civil Service Commission, State of Illinois, "Findings and Decision", June 19, 1974; underscorings added.

During the time span in which Appellant was charged with missing meetings, May through October 1973, Kankakee State Hospital, where he was employed, as a psychologist, was in transition from a psychiatric hospital to a facility limited to the mentally retarded; and retardates were being transfered in from other state institutions in large lots. This required Appellant to review the psychological reports of each new admission, and to test or retest those who had not been tested for as long as 30 years; and to correct errors where recent testing was done with the wrong tests, resulting in some misdiagnoses of retardation of some who were above the retarded level. In addition, during the same time span, summer of 1973, the classification of "retarded" was lowered, requiring a review, and where needed, retesting of past admissions who might no longer be considered retarded. (CSC p 32, sec 121; p 28)

It took about 60 hours a week for the tests, scoring, analysis and recording (CSC p 27, sec 118; pp 28, 30), and there was not time to add from 5

to 11 hours of meetings, per work week. From the psychological tests varied reports were made, including 1- for the Medical Records, which are a legal requirement; and 2- reports for the ward meetings, giving evaluations of the retardates assets, handicaps, learning readiness, and recommended methods of working with these, for the staff to use in planning care of the residents. The staff were given reports for every resident considered at all meetings (CSC p 21, sec 90). The Commission allowed the written reports were "participation" in the meetings (CSC p 37, sec 146). They also allowed no harm nor negligence resulted to the retardates from sending reports instead of personally attending the meetings (CSC p 37, sec 146, 147, 148).

In testimony, Appellant was asked if he had found any misdiagnosed among a group of 60 newly transfered retardates, and he replied, "Yes" (CSC p 31, sec 121). The transcript garbles his description, but he added he found two who were misdiagnosed as retarded, who were above the retarded

level (CSC p 32, sec 121).

Professional regulations and laws protect the public against harmful and negligent practices. People who have been misdiagnosed and kept in institutions as "retarded" have sued states, and can sue the individual practitioner. If Appellant had gone to meetings and not tested and diagnosed, he could have been held responsible for not correcting the misdiagnoses, and could have been sued for harm done, been fired, and lost his license to practice, for negligence.

More specific laws apply to the retarded population considered here. One is the Illinois Department of Mental Health requirement that all new admissions be tested within thirty days of admission. The other is an Illinois State Law:

> Every patient is entitled to adequate and humane care and treatment. (Ill. Rev. Stat. 91-1/2, sec 12-1)

The "Standards for Residential Facilities for the Mentally Retarded", Joint Commission on Accreditation of Hospitals (hereafter called "Accreditation Standards") are not law (except in Alabama), but

they define the nationally accepted practices for psychologists in retardation facilities. Their standards require evaluation (testing - 3.10.3.1) that is frequently updated (3.10.3.5; 3.10.4.1; e.10.3.1.1). None of the standards require attendance at meetings, certainly they would not require meetings to take priority over, and annul, all other psychological functions they list. Appellant followed all the Accreditation Standards for psychologists.

Relevant findings of the Illinois Appeals Court are:

> . . the administrative body found plaintiff failed to attend meetings in contravention of orders by his superiors to do so. While this finding was not held to constitute a failure to perform his professional duties, the Commission held this conduct was insubordination and grounds for discharge. Plaintiff admits . . he failed to attend staff meetings.
>
> While Plaintiff may in good faith have believed his reasons for declining to attend . . were valid, he nonetheless failed to abide by the policies and directives of his superiors. Notwithstanding plaintiff's professional status, the civil service could not effectively function if all civil service professionals asserted rights to set their own work priorities. The Commission's

> finding plaintiff had been insubordinate was not contrary to the manifest weight of evidence. Therefore, the Circuit Court ruling must be reversed (Ap. Ct. p 4).*
>
> Plaintiff has argued the manifest weight of evidence does not support any discipline at all. We take this to mean plaintiff did not violate any terms of his employment. We have already held the trial court's holding in this regard was contrary to the manifest weight of evidence. Furthermore, the severity of the sanction imposed for plaintiff's misconduct should not have been considered by the circuit court in determining whether the findings of the Commission were contrary to the manifest weight of evidence (Ap Ct p 5)

The three variously called, "superiors", "supervisors", and "employers" were: 1- Dr. Misevic, Superintendent, Kankakee State Hospital, with an M.D. from the University of Germany, who is licensed to practice medicine in Illinois (CSC p 16, sec 63). 2- Mr. Ira Collins, Assistant Superintendent, in charge of the mental retardation section, who has an M.A. in Administration, from a Missouri University (CSC p 8, sec 28); the statement he has an M.A. in psychology (CSC p 7, sec 23) is an error. 3- Dr. Koslowski was a Resident Psychiatrist, whose licensure was not mentioned (CSC p 13, sec 51).

* Appeals Court Opinion, in Appendix; Underscoring added.

Mr. Collins appointed Dr. Koslowski as "supervisor of the psychology department". Dr. Misevic has since been transfered as not qualified to be a superintendent of a retarded facility. None of the three had the required education, especially in test construction and statistics, to be qualified to be hired or licensed as psychologists. The Appeals Court's statement (p 2) about Appellant's objections to giving "raw numerical scores of IQ tests" came from the directives of the "supervisors"that Appellant should give "raw scores"to the staff, which is a technical impossibility. Raw scores are a first step in a statistical sequence, generally the raw scores are converted to standard scores, which are compared with an equivalent (norm) group, from which are derived varied scores: percentile ranks, school grade equivalents, IQ scores, or other kinds.

Diagnostic work is a serious responsibility, it determines the fate of the person tested. Not only must retardation be differentiated from the normal, it must also be differentiated from brain

conditions and psychoses. In directing Appellant's diagnostic work, and directing it be abandoned, as having less priority than attending meetings, the superiors were malpracticing in psychology, and their orders were illegal on that basis, as well as on the basis that they countermanded the State law that retardates are entitled to adequate and humane care.

QUESTIONS PRESENTED

If Appellant had obeyed orders and gone to meetings to the neglect of correcting misdiagnoses, or failed to diagnose, it would be harmful, and the ones harmed could sue the Appellant. If they had sued, and brought their case before the same Appeals court that now says Appellant should obey orders, the court would say the opposite. It would say Appellant had enough knowledge to know better than to obey such orders, and he was responsible for using his judgement based on this knowledge. They would not base their opinion on whether orders were obeyed, but on whether standards and ethics of the field were followed. Obedience to authority

is never an excuse for an act that causes harm to any person.

Citing of cases, Appellant knows of no equivalent case, because the issue is the uses and abuses of knowledge, and this is linked with the dependent public welfare. Both the careerist and public invest in education for services, and in providing the services. To abrogate the social contract between professional and public, with a military like discipline of unquestioning and absolute obedience to authority, constitutes a "taking" from both the careerist and the public, of the benefits of their mutual investment. This violates the spirit, if not the letter, of the 14th amendment's property rights clause, of both the public, and of appellant.

The Civil Service Commission further state:

> Individual employees cannot be allowed to question . . (CSC p 37, sec 148).

This violates rights of free speech and to petition. It also violates the necessary professional and scientific freedom to question and to

improve, or correct errors, of knowledge.

The decision that orders must be unquestionly obeyed, also abrogates the humanitarian purposes of both the people and the professional:

> . . (Appellant) felt his first and foremost duty was to the residents which the institution was attempting to help . .
>
> Although a great deal of sympathy may be extended to the Respondent, for his feelings and attitudes toward the residents and their wellbeing in this matter, Respondent still . . is required to do as his employer directs (CSC p 36, sec 141, 144)
>
> This insubordination cannot be condoned and is in fact grounds for discharge (CSC p 37, sec. 148).

The regulation that 'superiors' can direct professional services which effect the public health, safety, and humanitarian care, and can demand unquestioning obedience, and punitively enforce their orders, without any of the limits of their zealotry or errors through due process, free speech, grievances, or even appeal to reason or humanity, gives the superiors absolute rights over the careers of professionals, and absolute rights over the well-being and lives of the people, which our forefathers

would not grant, even to a king.

STATEMENT OF THE CASE

Appellant's qualifications and professional history were given in preceeding hearings; they are restated here because the case involves misunderstandings, omissions, and mistakes about professional work.

Appellant was employed as a Psychologist III at Kankakee State Hospital, September 1964 to October 31, 1973. He was, and is, licensed to practice psychology. His education is in psychology, including about eight years of university study, an M.A. and intership. At the time of his dischare he had about seventeen years of experience as a clinical psychologist. He also served in WW II.

Between 1963 and 1972, his performance evaluations ranged from high to superior, with notations of exceptional competency; accomplishing large volumes of work; superior job knowledge; efficiency and initiative. The superindendent extended appreciation for outstanding contribution to the hospital, 1971. Peers testified his reports

were the best of those written by the staff; and that he was the most competent psychologist on the staff (Tr. pp 700-2; 711-16; 513; 561-62; Ex. 1, 2, 7, 11, 12).*

For the last four years of employment at Kankakee, Appellant was assigned to the mental retardation department, which was then a smaller section of a psychiatric hospital. He was the first and only psychologist working with the retarded for the first three years. Most of the new psychologists came in the summer of 1973, and were new at work with the retardates. They increased, rather than decreased, Appellant's work load, in orienting them and explaining the special tests used with the retardates (CSC p 27, 28, sec 118).

Appellant started the psychology department for the retarded section (CSC p 24, sec 107). When he began, he found a large number had not been tested for up to 30 years; there were no psychology records; and the medical records were outdated. This was negligence because frequently updated tests are a standard requirement. Appellant tested all of

* Tr. Transcript of the Civil Service Hearing

them; started the psychology department files; and updated all the medical records.

Other functions of a psychologist are therapy, which Appellant did. He acted as a consultant (through the state) for a nearby home for the retarded. The major areas of psychological practice are: psychological testing, therapy, and research. Appellant's research was of necessity (CSC p 24, sec 198; p 25, sec 110). He found, when he started, there were no adequate norms (a statistic needed for measuring intelligence and abilities) for the kinds of retardates at Kankakee; and he started collecting these norms. Another research resulted from finding a number of retardates were unable to take standard tests, which measure mental ability either by use of words, or by performance. Some retardates could not use nor understand words; and were also too physically handicapped (as by spastic paralysis) to do something to show their mental ability. It seemed they might have some mental ability that could be found if a different modality than saying and doing were used in testing. Appellant constructed such a test,

copyright 1972. It needs expansion, which he continued to do until fired.

All the preceeding psychological work depends on psychological testing, for: diagnoses; information for the staff to use in planning care and training of the retardates; medical records; statistics, norms and research. The superior's orders to attend meetings instead of testing would forcedly abandon all psychological services.

The limits of the disciplinary guidelines is "as long as no illegal act is involved". This encompasses wrongs not clearly defined as "illegal:. It deprives Appellant of use of his education and experience; denies freedom of experience to maintain and increase his competence, and to thereby increase the value of his career as a property, as well as depriving him of rights to pursue a lawful occupation, under the 5th and 14th amendments.

Appellant paid a great deal for his own education, working in factories and saving for tuition,

as well as hard and continuous study; and working at very low pay a number of years in order to get experience to increase his competence. Establishing a regulation that requires obedience to those less competent, and whose directives were damaging to a career deprived him of his property rights in his career. Firing him for not obeying orders also deprives him of his property rights, including his professional reputation, since the firing acts as a blacklisting, and further reduces the property value of the career - especially, since the State has a near nonopoly on psychological services.

Another kind of wrong permitted by the lack of limits above "no illegal act" is the destruction of potential. Appellant's research might have had some potential for social benefit, beyond his career, in leading to better understanding and treatment of retardates, as well as increased basic knowledge about brain functions. He was first limited by supervisory interferences, then prohibited from continuing by being discharged. That it might have some potential is indicated by a

letter from the Kennedy Foundation, from which a research grant was requested. The answer recommended applying to HEW, but did say, "your past and proposed work covers a critical area," "important investigation", and "Your original research appears quite promising."

— ——

FINDINGS OF FACTS, DECISION OR OPINIONS of the Civil Service Commission and the Appeals Court. Most findings are based on omissions of facts they did have; or on flat contradictions of facts they did have. The laws involved are:

1 Violations of grievance procedures, due process and free speech:

Appellant was fired the day after he filed a fifth grievance. Testimony of Ira Collins was, "I know he filed one just as he was leaving" (Tr p 203).

The grievance date shows it was the day before the suspension date. He was fired over the same issue the grievance was intended to resolve. All four of his previous grievances were about supervisors, including one against orders to

violate professional standards and ethics. The grievances were reacted to with hostility (Tr. p 203; CSC p 25 sec 112) and by non action on the grievance. The unheard issues of the grievances were retroactively inserted into the court findings, in a negative way.

The Civil Service Commission knew Appellant's grievances were not being properly responded to, because, under the Personnel Code, Sec. 10 (9), it is the duty and power of the Commission to direct compliance with the grievance. Personnel Rule III (3-10 to 2-40) states "Conditions of Employment" is the lawfully established plan for resolution of employee grievances. Appellant had petitioned the Commission to cause compliance with his first grievance, 1971, and they did not respond. He then sued the Commission in federal court for violation of his due process rights (CSC p 25, sec 111); the suit is currently in the federal appeals court.

Appellant gave the grievances to be used as evidence in his Civil Service hearing, especially

the fifth grievance, because giving proof that his grievance was violated by interrupting it to fire Appellant about the same issue as the grievance, seemed his best defense. Suppression of the grievances was against his request they be used in evidence, against his knowledge that it was done, and against the 14th amendment right to show evidence in his favor.

The appeals to law and justice through grievances and courts were intended to protect Appellant's career against orders to violate standards and ethics; and against use of damaging ratings as enforcement of, or retailations for not, obeying orders. The laws and courts failed to provide this protection.

The Civil Service Commission could not be impartial judges, because they were deciding on their former decision not to enforce the grievance procedure; and deciding on the consequences of their failing responsibility to the Appellant. Their philosophy, "Individual employees cannot be allowed to question.. . " (CSC p 27, sec 148) shows a bias

against Appellant's grievance rights to question the orders of his superiors, and against rights of free speech and of due process.

Although the grievances were not considered by the hearing bodies, they were informed about the grievances from the hearing testimony (CSC p 7, sec 23; p 8 sec 28; p 25 sec 111, 112; Tr. 203 (391))

2 Unequal treatment under the law:

a - Appellant was fired under one section of the Personnel Code; and denied equal rights, of the grievance procedure, under the same Personnel Code.

b - Other professional people missed meetings. Appellant was the only one kept under secret surveillance, to record his non attendance; and he was the only one disciplined for not attending (CSC p 12,sec 43; p 12 sec 49; p 19 sec 82; p 22 sec 96, p 23 sec 101).

c- Appellant was the only professional employee, under the Department of Personnel, who was not permitted to set his own work priorities (CSC p 37 sec 144; Ap. Ct. p 4). The concept of

"priorities" was introjected in the Commission Findings, and supported by the Appellate Court, and functions as a charge, after the hearing and time to refute it is past. The Civil Service Commission Findings say the employee must bow to the employer's orders, "whether the employer's priorities are correct or incorrect" (CSC p 36 sec 144). The Appeals Court says the civil service could not function, "if all professionals asserted rights to set their own work priorities in contravention of directives" (Ap. Ct. p 4). But all professional civil service employees are expected to set their own work priorities; this is shown on the Personnel Department rating form, Part II, for professional employees, which rates them on their competence in setting their own work priorities, as shown on Appellant's "Superior Performance Record", 1971:

1- Planning . . establishes logical priorities . . "highly satisfactory"

2- Follow-up . . Maintains control of work loads . . "highly satisfactory" (Tr. 719 -20, Ex. 11).

3 Other departures from the usual course of judicial proceedings, touching on the 1st, 5th, 6th, and 14th amendments: "Insubordination" was not given as cause for discharge, nor mentioned in the hearing. The term "insubordination" was introduced in the Discussion and Findings, after the hearing. Appellant was not informed in advance, nor even in the hearing, that he was in violation of a Personnel Code about "insubordination". Under the 6th amendment, the person is to be notified of the factual nature of the wrong doing; and the statute should be established beforehand, so all people know of its existence.

Originally, Appellant was not charged with missing meetings; he was charged with professional wrong doing, such as "derilict in performance of duties"; "(adversely) effecting the period of hospitalization, treatment, and training of patients". Missing meetings was not given as the wrong doing, but as proof of the professional wrong doing; missing meetings was an administratively defined wrong - not a professional wrong. (CSC p 1,2; p 37)

A professional wrong cannot be deduced from an administrative wrong. The criteria of a professional wrong is a harmful or negligent practice, which is judged according to whether professional standards and ethics are followed; meetings are not a professional standard nor ethic. Since Appellant followed all standards and ethics, he caused no harm nor negligence, and all charges of causing harm or negligence were dropped. The Findings say specifically that no harm nor negligence was done to any retardate (CSC p 37 sec 146, 147, 148; Ap. Ct. p 4). Since no professional wrong was done, the charges were changed to the proof given of the administrative wrong of missing meetings, and considered as the wrongs in themselves.

Four of the eight charges that pertained to professional wrong doing were dropped, and this also dropped the proof of missing "meetings" (charges 1, 2, 7, 8). Charge 3 is the only remaining charge with mention of "meetings" - but the "proof" given was that missing meetings was against his job description. The job description

for Psychologist III (Ex. 2) does not specify attending meetings; it says psychologists do testing, therapy, research, and supervise other psychologists. That is, a Psychologist III is not supervised, and there is a semantic error in the charges that appellant did not follow supervisors orders, because by custom and by job description, a Psychologist III is not supervised. (Tr. 677)

The other charges of which Appellant was found guilty were charges 4, 5, and 6. These do not mention meetings. The charges were:

> (4) . . failed to respond satisfactorily to written instructions from his immediate supervisors to adequately perform his assigned duties (giving the memo date and author as proof)
>
> (5) . . given specific work assignments in writing by his immediate supervisors . and he failed to comply (giving memo, author, and date of such "assignments")
>
> (6) . . having been instructed orally and in writing by his immediate supervisors, to perform assigned duties and responsibilities of his position . . failed to comply (with proof of memo, date and author listed)

The Civil Service Commission and Appeals court seriously erred in assuming such orders were

exclusively about meetings. One such memo, May 24, by Ira Collins was titled: "Subject: Dissemination of Psychological Data" and states:

> Your responsibility . . is to provide psychological information useful to the staff . . (and go to meetings) (Tr. 680, Ex. H "A")

This was actually a hostile rejection of Appellant's grievance about orders to violate ethics of information giving, in which the ethics were referred to as "slander", and renamed "psychological information", and in effect directed the violation of the ethics involved. (Tr. p 203).

The time span of missed meetings, listed on the charges was reduced from May to October, to August to October. Of the memo's covering the reduced time span, there were three, August 7, from Dr. Kozlowski, and September 10 and 18, from Dr. Misevic. The August 7 memo, states:

> Your assignment is to provide psychological services for Building 100 and 191 (and go to meetings). (Tr. 682, Ex. 4"F")

Dr. Misevic's memo of September 10, states:

> . . give a frank and knowledgeable exchange of relevant information . . (and go to meetings). (Tr. 693, Ex. 4 "I")

Appellant asked for a bill of particulars, as to what was meant by "relevant information", in order to have clarified that Dr. Misevic was directing violations of professional ethics. Dr. Misevic ignored the request and repeated his directives in another memo, Spetember 18.(Tr 692 H"2")

It would appear from the "directives" that Appellant's work was under attack, more so than his non attendance of meetings. The superiors meant by terms like "relevant information", "useful information" and "dissemination of psychological data" that Appellant should give "raw scores", IQ scores, and confidential information, all of which are against professional standards and ethics. They ignored grievances and explanations, and kept ordering the same unethical and harmful practices.

An error of the Civil Service Commission and the Appeals Court was that the employer set a priority on meetings, above the psychological diagnostic work of testing. Testimony of Ira

Collins, to the question of whether he relieved Appellant of his testing duties was "absolutely not" (CSC p 12, sec 48).

Orders of the supervisors were a form of entrapment. If Appellant had gone to meetings, as ordered, he would necessarily have reduced his psychological services (which were also ordered by the supervisors), for which he could have then been charged with negligence and harmful practices. Since he did follow the orders to provide psychological services, which would be impossible to do, if he went to meetings, he was charged with insubordination in not going to the meetings. (A Union term is, to "vise" the employee).

The Commission and Appeals Court made a sequence of errors: 1- that professional people are supervised; 2- that the employer, not the professional, sets work priorities, 3- that the employer set a priority on meetings above psychological services; 4- that the memo's of proof only directed attendance at meetings. It could be said Appellant did follow supervisors' directives in doing his

psychological work, and, if he were allowed the same rights of all other professional employees to set his priorities in following these directives, he not only committed no professional wrong, he also committed no administrative wrong.

The Commission transcript and Appeals Court made factual errors in giving the number of meetings Appellant was directed to attend. At some times there were meetings scheduled five days a week with double overlaps: two 9 a.m. meetings, and two 1 p.m. meetings on Tuesdays and Thursdays, totalling up to about eleven meetings per week, or up to eleven hours that would have been added to the 60 hours, per work week, required for the psychological work.

The Appeals Court erred in saying "sometimes" reports were sent to meetings (Ap. Ct. p 2). A report was sent for every resident considered at every meeting (CSC p 21, sec 90; and the actual reports were brought into the hearing as proof).

The Appeals Court erred in expanding the time span covered in the charges, by stating they started

in May (Ap. Ct. p 2). The Civil Service Commission had reduced the time span to start with August to October (CSC p 37, sec 147). The shortened time span was specifically mentioned in the Circuit Court hearing, where it was specified:

> . . on August 7, and it is from this day we are really concerned with . .

The reason for the reduced time span, was because the original charges gave specific dates of missed meetings, without checking with the timekeeper's records, so Appellant was charged with missing meetings on holidays, sick days, and on the day of his father's funeral, July 13 (CSC p 31, sec 118). Instead of correcting the erroneous dates on the charges, the time span was reduced to omit the July funeral date. If the remaining charges were corrected to exclude legitimate time off, Appellant missed about four meetings. This was in spite of calling attention to the errors of dates (Tr. p 867, 868).

The Appeals Court states:

> . . the severity of the sanctions imposed for plaintiff's misconduct should not have been considered by the Circuit Court in determining whether the findings of the Commission were contrary to the manifest weight of the evidence (Ap. Ct. p 5).

This violates the 8th amendment, that punishment should not be disproportionate to the offense committed, based on the facts of a particular case.

The Appeals Court erred in citing the authority of witnesses as proof there was nothing unethical about giving IQ scores and confidential information to the staff. Experts have testified against the earth's moving and against Mendalian genetics. Of the defense witnesses, only one was qualified as a psychologist in mental retardation, and, although employed by the state, he did not work at Kankakee, nor know the Appellant. The <u>best proof</u> would have been the American Psychological Association's "Ethical Standards of Psychologists",1963, which were in effect at that time. A second best proof would be the Accreditation Standards, which are nationally followed. Both these sources were quoted in memo's and grievance about orders to violate ethics. Even

if the administrators did not properly respond to the grievance, as required by law under the Personnel Code, they did know the evidence existed, because they were given the information.(Tr p 685-89)

<u>The supervisory orders to give the staff IQ scores and confidential information were orders to violate professional ethics; and they were orders to carry out harmful practices</u>. On the record of a staff meeting of May 18, 1973, this is reported:

> Discussion followed on the psychological information in the resident's folder in the <u>Medical Records</u>. Mr. Collins state that <u>psychological information</u> should be shared with the treatment team for planning resident's treatment program. (Tr. 727)

<u>The Medical Records are confidential</u>. The State provides for maintaining confidentiality by providing a Medical Records Library, with a librarian who would give the records to only those qualified and who had some purpose in seeing them. The kinds of staff who composed the ward meetings would not have been permitted to see the records - otherwise they could have gotten the information

from the records, and not require Appellant to "share" it. Psychological reports are universally stamped "Confidential", not just in Illinois, and a release by the person tested is required before information can be given out.

> First, he (Appellant) objected to inquiries made at these meetings . . to the raw scores in IQ tests . . He felt to reveal these scores in an open staff meeting would be to breach his professional ethics as a psychologist. Paranthetically, it should be noted that none of the other psychologists or medical doctors who testified at the administrative hearing felt such dislosure to the staff . would be unethical breach of confidentiality.
>
> Plaintiff's supervisors, Dr. Kozlowski, Mr. Collins, and Dr. Misevic . . soon advised him that notwithstanding his time constraints and ethical beliefs, his attendance and full participation was required. (Ap. Ct. p 2)

IQ scores are confidential. The Americal Psychological Association, "Ethical Standards for Psychologists" states, in Principle 14, "Test interpretation", p 7, 1963:

> Test scores, like test materials, are released only to persons who are qualified to interpret and use them properly.

If the superiors did not know the difference between a "raw score" and an "IQ score", they were

were not qualified to interpret the test scores they demanded be given them, instead of the interpretation the appellant did give them.

From the Ethics code, Principle 14, part b:

> Test results or other assessment data used for evaluations or classification are <u>communicated to employers</u>, relatives, or other appropriate persons in such a manner as to guard against misinterpretation of results, or misuse. <u>In the usual case, an interpretation of the test results, rather than the score is communicated.</u>

Appellant gave the staff the "interpretation of the test results" in accordance with the above ethics.

Relevant recommendations of the Accreditation Standards ("Standards for Residential Facilities for the Mentally Retarded" Joint Commission on Accreditation of Hospitals, section of psychological practices)are:

3.10.3.4.6 Maintain accepted standards of confidentiality.

3.10.9.5 (gives qualifications of a psychology department supervisor, which Appellant met, but his supervisors did not meet).

3.10.9.6 (the above qualified person is responsible for maintaining standards and ethics)

3.10.9.9. All members of the psychological services shall have and be familiar with the Ethical Standards of Psychologists, and the Casebook on Ethical Standards of Psychologists . . and all shall adhere to the Ethical Standards stated therein.

3.10.9.9.2 The application of the Ethical Standards of Practice with the mentally retarded shall be emphasized.

Other sources given the superiors on ethics included some of these quotations:

> A great deal of harm and very little good can come from handing out IQ's indiscriminately . . (Maud A Merril, designer of the Stanford Binet, in "Testing Today", Haughton Mifflin Co.)
>
> . . the confusion of IQ with . aptitude. and . dangers of potentially damaging effect of labeling . . ("A Very Special Child", President's Committee on Mental Retardation, 1971).
>
> Few things interfere more effectively with real understanding than indiscriminate reporting of IQ scores. (Test Service Bulletin)

The supervisors' orders to violate ethics and the confidentiality of the Medical Records, and to give out IQ scores were orders to carry out harmful practices. IQ scores are used for statistics and for diagnosis, which is done by the psychologist. The staff meetings do not need IQ scores for plans

relevant to behavior treatment or training of the retarded.

An IQ is a sum of the resident's best and most disabling abilities. It lowers the better abilities, so the staff would not know the retardates best abilities, nor specific disabilities. They would not know, from an IQ score, whether a specific deficit was remediable, or not remediable; and they could cause harm and cruelity by trying to force learning, and punish failures, for behaviors beyond the retardates abilities. The Appellant gave the staff an assessment of abilities, disabilities, learning readiness, and methods recommended for treating these.

G ving out IQ scores is also a harmful practice because it puts the retardates into castes of more or less inferior, and they are already sensitized to their inferiority. It holds them up to public shame and humiliation. To the extent the IQ scores would become public knowledge by removing them from the confidential records, and putting them on reports of meetings, and other

reports on the wards, where they could be seen by the staff, residents, resident's families, and visitors, the families of the retarded are also publicly shamed, and unnecessarily. "Retarded" has some social acceptance; being parent to an offspring with an IQ of 20 is less acceptable.

THE STATUS OF PROFESSIONAL EMPLOYEES BEING UNDER TWO MUTUALLY EXCLUSIVE REGULATORY AND PUNITIVE DISCIPLINES

Professional employees are under conflicting and punitive disciplines, the administrative and the professional. It is hoped this court will resolve this conflict, not only for the Appellant, but for all professional people who also have this conflict.

The Appeals Court erred in upholding the administrative discipline without permitting the best proof of the professional methods. The issues of ethics and other traditional practices were suppressed, first by grievances about them being not heard; and, second, by charges that were confused

and irrelevant, so Appellant could not bring into his defense anything about the real issues. But the force against following professional standards and ethics persisted into the Appeals Court decision, by their bypassing ethics as "ethical beliefs" and then asserting the contrary of ethical practices. For these reasons, a brief outline of ethics should be allowed.

Ethis are a social contract, because people invest heavily in the knowledge fields, and pay two- thirds of a professional education, as well as paying for the services. Ethics is a guarantee that the knowledge people give to a few will not be used against them, but will be used for the public good. Standards usually specify how the practice will be conducted to protect people against abuses of knowledge, or against harmful or negligent practices. Based on this, general information is owed the people.

Private information is not owed the people, it is confidential, because private information

can be used against the individual. Test taking is a matter of trust that the information given in the test will not be used against the one tested; it is parallel to the 5th amendment, in requiring the person not be caused to testify against himself.

The general principle of ethics is that knowledge is a form of power, which people give professionals, and ethics acts as a limit to abuses of knowledge. It is parallel to civil rights, which act as checks on power of government, so it cannot be used against the people's good.

People hold professionals responsible, and punish those who violate the ethical contract, by law; there is no need for, and should not be, a conflicting disciplinary system.

A professional person is in a different class from the cases cited on all sides of Appellant's case, since, in Appellant's case, the issue was knowledge and its uses or misuses, and the dependent welfare of the retarded. The other cases

cited were limited to administrative issues which were irrelevant to Appellant's case, but tended to bias opinion against him.

Professional people and scientists are required to question, in order to prevent and correct errors, and to improve knowledge; they require freedom of experience in practice, for the same reasons. If the Commission Findings, "Individual employees cannot be allowed to question . . ", becomes effective on a large scale, there would be no way of improving knowledge or correcting errors, which would have a seriously adverse effect on the general public welfare.

The findings that professional employees must follow orders, without question, under threat of punishment for "insubordination", gives the supervisors or other authorities, absolute power over the careers of professionals, their fields, and over the lives and welfare of the people, and without the limits of either due process or ethics. Because of the increasing power of technology and of

government, and the increasing potential of harm to the people which can result, the courts should increase, not deny, the blocking action of both due process, and of ethics.

Since a grievance must go to the superiors who are the subjects of the grievance, the superiors can refuse to act on the grievance, which denies the rights of grievances and due process. When the issue is a matter of public concern, such as negligence in diagnosing retardation; or of harming them by violating their trust in giving test information about themselves, there should be some court of appeal about the issues, without the necessity of the direct defense being the professional career, which still excludes the issues that were the cause.

The Civil Service Commission's statement, in their Findings, implying Appellant was a "definite detriment to the State of Illinois" (CSC p 37 sec 148), acts as a charge, after the hearing and time for defense against it is passed, and it heavily weights the emotional tone against Appellant. The

justifications for punishments by administrators, who make out references, ratings, and charges, can destroy the professional person's reputation and career, and is unjust punishment in itself. If there is no appeal to justice, there is no limiting such unjust punishments and harms to professional reputations and careers (and to the dependent welfare of the public).

CONCLUSIONS

For the reasons set out above, jurisdiction should be noted.

Respectfully submitted,

Martin Epstein

Martin Epstein
5110 South Hyde Park Blvd.
Chicago, Illinois 60615

January 1978

pro se

APPENDIX

61439

MARTIN EPSTEIN, Plaintiff-Appellee, vs. CIVIL SERVICE COMMISSION, STATE ILLINOIS, JOHN D. FOSTER, individually, and as Chairman of the Civil Service Commission, et. al. Defendants-Appellants	) APPEAL FROM THE CIRCUIT COURT OF COOK COUNTY) HONORABLE EDWARD F. HEALY, PRESIDING

MR. PRESIDING JUSTICE DOWNING delivered the opinion of the court:

Defendants (hereinafter Commission) appeal the reversal by the trial court of its order, after a full hearing, discharging the plaintiff as Psychologist III at Kankakee State Hospital. Plaintiff cross-appealed the trial court's refusal to admit into evidence information relative to the untimely issuance of the Commission's decision.

Plaintiff has been a state employee for at least ten years. At the time of his discharge in 1973, he was assigned to the mental retardation program at Kankakee State Hospital. His principal

duty was to conduct tests to measure and evaluate the measured and adaptive intelligence of profoundly retarded adults.

Psychologists at the hospital were required to regularly attend three separate types of meetings. Weekly resident staff meetings were to be attended by every professional at the hospital. These meetings were held weekly and dealt with information and policies of general interest to all staff at the hospital. Weekly program planning meetings were interdisciplinary discussions among the staff workers of the hospital. At these meetings, the needs of patients (referred to as residents because they were not physically or mentally ill) would be discussed and treatment programs designed. Epstein assigned to two units in the spring and summer of 1973, was expected to attend two such program planning meetings weekly. Finally, all psychologists were expected to attend monthly psychologist's meetings.

In May 1973, plaintiff discontinued his attendance at all of the above mentioned regularly

scheduled meetings. He did so for two reasons. First, he objected to inquiries made at these meetings by non-psychologists relating to the raw numerical scores in IQ tests of residents at the hospital. He felt that to reveal these scores in an "open" staff meeting would be to breach his professional ethics as a psychologist. Parenthetically, it should be noted that none of the other psychologists or medical doctors who testified at the administrative hearing felt such disclosure to staff members - non-psychologists and even non-doctors - would be an unethical breach of confidentiality.

Second, plaintiff believed that as a professional psychologist, he could autonomously plan his work schedule. Since he had a very large case load, often requiring him to work a 60 hour work week in his testing program, he concluded that three weekly meetings and a fourth monthly meeting unduly interfered with his higher priority testing functions. In lieu of his attendance plaintiff sometimes submitted written reports on the resi-

dents under discussion at the program planning meetings. This procedure was acceptable to Dr. Hasbarger, who had been plaintiff's intermediate supervisor. However, it was not acceptable to Mr. Ira Collins, Dr. Hasbarger's replacement.

Plaintiff's supervisors, Dr. Kozlowski, Mr. Collins and Dr. Misevic (ascending on the chain of command), soon advised him that, nothwithstanding his time constraints and ethical beliefs, his attendance at meetings and full participation was required. Plaintiff admittedly failed to attend. Dr. Kozlowski, plaintiff's immediate superior, first had a letter of reprimand issued under the signature of Dr. Misevic. Plaintiff still failed to attend the staff meetings. Dr. Kozlowski and Mr. Collins conferred on this matter. Ultimately, Collins recommended that plaintiff be suspended for 30 days, pending discharge proceedings.

Thereafter, plaintiff sought an administrative hearing on his discharge before the Comission. After a full hearing, the hearing examiner recom-

mended that the discharge be sustained. The Commission unanimously adopted the hearing examiner's recommendation. Plaintiff filed an action in the Circuit court of Cook County for administrative review. The circuit court reversed the discharge.

On appeal, the Commission contends the trial court erred in reversing its decision since the discharge decision was not against the manifest weight of evidence. It also argues the trial court improperly considered the magnitude of the penalty imposed against plaintiff in reversing and erroneously reversed when it admittedly did not read the record of proceedings before the administrative body.

On cross-appeal, plaintiff contends the trial court erred in denying plaintiff the opportunity to introduce evidence the Commission failed to reach its conclusion within 60 days of its receipt of the transcript of the administrative hearing, as required by Ill. Rev. Stat. 1973, ch. 127, par 63b111.

I.

The initial question presented for review is whether the trial court erred in its review of the

findings and order of the Commission. Judicial review of decisions made by administrative agencies is regulated by the Administrative Review Act (Ill. Rev. Stat. 1973, ch. 119, pars. 264-279). Notwithstanding the apparent broad powers of the circuit court on administrative review granted by section 12 of the Act, the scope of review in such proceedings is severely limited. The evidence adduced at the administrative level along with the agency's findings of fact on the evidence are prima facie true and correct. Adamek v. Civil Service Commission (1st Dist. 1958), 17 Ill. App. 2d 11, 16-17, 149 N.E. 2d 466. It is well established and conceded by plaintiff that findings of the administrative agency can be set aside on review only if against the manifest weight of the evidence. Kelly v. Police Board (1974) 59 Ill. 2d 140, 319 N.E. 2d 478.

Plaintiff contends the trial court correctly ruled the manifest weight of the evidence did not sustain any disciplinary measures against him. To reach the conclusion that a particular finding is

against the manifest weight of the evidence, the opposite conclusion must be clearly evident. See Kelly v. Plice Board, supra and the cases therin cited.

Here, the administrative body found the plaintiff failed to attend staff meetings in contravention of orders by his superiors to do so. While this finding was not held to constitute a failure to perform his professional duties, the Commission held this conduct was insubordination and grounds for discharge. Plaintiff admits here, and admitted before the Commission that he failed to attend the staff meetings. While plaintiff may have in good faith believed his reasons for declining to attend required staff meetings were valid, he nonetheless failed to abide by the plicies and directives of his superiors. Notwithstanding, plaintiff's professional status, the civil service could not effectively function if all civil service professionals asserted the right to set their own work priorities in contravention of the directives of their superiors. The Commission's finding that

plaintiff had been insubordinate was not contrary to the manifest weight of the evidence. Therefore, the circuit court's ruling must be reversed.

Plaintiff has argued that the manifest weight of the evidence does not support any discipline at all. We take this to mean that plaintiff argues his failure to attend meetings did not violate any terms of his employment. We have already held that the trial court's holding in this regard was contrary to the manifest weight of the evidence. Furthermore, the severity of the sanction imposed for plaintiff's misconduct should not have been considered by the circuit court in determining whether the findings of the Commission were contrary to the manifest weight of the evidence. E.g., Nolting v. Civil Service Commission (1st Dist, 1955), 7 Ill. App. 2d 147, 129 N.E. 2d 236.

Fornuto, a city of Chicago police officer, was discharged by the plice board after a hearing and a finding by the board that he had violated departmental rules. The circuit court reversed the board's findings

and this court affirmed.

Kreiser, also a city of Chicago police officer, was discharged by the police board after a hearing and a finding by the board that he had violated departmental rules. The circuit court affirmed the police board's actions. This court held the conduct, as unsatisfactory as it may be, is not sufficient to require a discharge.

In both cases this court held the police boards findings were not sufficient "cause" to warrent a discharge. "Cause" was held to be some substantial shortcoming which renders the employee's continuance in office in some way detrimental to the discipline and efficiency of the service.

In Nolting, this court warned -- in cases of this type -- against the court assuming functions of a super-commission or super chief of police. (Nolting, 7 Ill. App. 2d. at 162, 163). We think this warning in Nolting, to be singularly applicable in a case of this type. Here, plaintiff a professional person, as a result of his own beliefs,

elected to disregard the orders of his superiors. We believe the Commission -- rather than the judiciary -- is better able to determine the effect that conduct will have on the proper operation of the hospital. Satisfied that plaintiff had a fair and proper hearing, and satisfied that the findings of the Commission are not against the manifest weight of the evidence, we think the trial court was in error to reverse the findings of the Commission on accout of the severity of its action.

II

We next turn to the question presented of plaintiff's cross-appeal. Here, the principal contention is that the Commission failed to make its final determination within 60 days of its receipt of the transcript of administrative proceedings, as required by Ill. Rev. Stat. 1973, ch. 127, par 63b111. If this is so, then plaintiff claims he is entitled to a writ of mandamus to order the Commission to reinstate him with back pay. The resolution of this issue turns on our conclusion of what constitutes receipt of the transcript by

the Commission

From our review of the record, it appears the typical procedure in Commission proceedings is for the Attorney General's office to represent the agency for which the employee sought to be discharged was working. A court reporter is present at the Commission hearings and prepares a transcript. This transcript is procured by the Attorney General. The Attorney General then transmits the transcript to the Commission.

In the instant case, the transcript was stamped received by the Commission 58 days prior to the date of its decision. Plaintiff contends that the Commission constructively received the transcript of the proceedings as of the date that the Attorney General procured the transcript from the reporting service. He argues the Attorney General is the attorney for all state agencies, including the Commission. However, in this case, the Attorney General was representing the Department of Mental Health, plaintiff's employer, in an advocacy relationship. The Commission was acting

as a quasi-judicial body. People ex. rel. Hurley v. Graber (1950), 405 Ill. 331, 90 N.E. 2d 763. In point of fact, the Commission was in no position to consider the merits of the case, from the transcript, until it actually received it.

While we agree that the 60 day period granted for consideration of the transcript is mandatory (cf. Stevens v. Department of Law Enforcement (1st Dist. 1974) 19 Ill App. 3d 24, 311 N.E. 2d. 312), we nonetheless hold the period does not begin to run until the transcript is actually received by the Commission. Hence, even considering the merits of plaintiff's cross-appeal (the Commission's motion to dismiss the cross-appeal having been taken with the case), plaintiff is not entitled to any relief. Plaintiff's cross-appeal is without merit.

The record here reveals that plaintiff had been a long term public servant and had done superior work. It is regretable that plaintiff and his superiors could not have resolved this matter

amicably. Nevertheless, we are bound to review cases according to the law. Here we are compelled to reverse the circuit court and reinstate the finding and order of the Commission.

CIRCUIT COURT JUDGEMENT REVERSED:

CIVIL SERVICE COMMISSION ORDER AFFIRMED

STAMOS and PERLIN*, JJ., concur.

* At the time of oral argument of this case, Justice John C. Hayes sat with Justices Downing and Stamos. Subsequently Justice Hayes died. Since that time Justice Perlin was designated the third member of the panel and has listened to the tape of the oral argument, and has read the brief and excerpts from the record.

BEFORE THE CIVIL SERVICE COMMISSION

OF THE STATE OF ILLINOIS

DEPARTMENT OF MENTAL HEALTH STATE OF ILLINOIS, Petitioner,	)	
vs.	)	
MARTIN EPSTEIN, Respondent	)	74 - 74

Report of proceedings at the hearing on the above entitled cause before Larry K. Gehman, Hearing Officer, for the Civil Service Commission of the State of Illinois, held at 160 North La Salle Street, Suite 1015, Chicago, Illinois, on the 23rd day of January, A.D. 1974, at the hour of 10:30 O'Clock A.M.

PRESENT

HON: WILLIAM J. SCOTT, Attorney General,
BY: MR. WILLIAM FITZPATRICK,
Assistant Attorney General

Appeared on behalf of Petitioners

MESSRS. ASHER, GREENFIELD, GUBBINS & SEGALL,
BY: MR. STEPHEN B. RUBIN, and
MR JOEL A. D'ALBA,

Appeared on behalf of respondent.

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

COUNTY DEPARTMENT LAW DIVISION

DEPARTMENT OF MENTAL HEALTH,)
)
PLAINTIFF)
vs.)
)
MARTIN EPSTEIN,)
DEFENDANT)

THE REPORT OF THE PROCEEDINGS HAD in the hearing of the above-entitled cause, before Mr. Lawrence Gehman, Hearing Officer, at 160 North LaSalle Street, Chicago, Illinois, on the 14th day of March, 1974 at the hour of 1:00 o'clock p.m.

PRESENT:

HONORABLE WILLIAM SCOTT, ATTORNEY GENERAL

BY: MR. WILLIAM FITZPATRICK

ASSISTANT ATTORNEY GENERAL

MESSRS. STEVEN RUBIN & JOEL D'ALBA,

APPEARED ON BEHALF OF THE DEFENDANT

49534

STATE OF ILLINOIS

OFFICE OF

CLERK OF THE SUPREME COURT

SPRINGFIELD

September 30, 1977

Mr. Stephen B. Rubin
Attorney at Law
Asher, Greenfield, Goodstein,
Pavalon & Segall, Ltd.
228 North LaSalle Street
Chicago, Illinois 60601

No. 49534 - Martin Epstein, petitioner, vs. Civil Service Commission, State of Illinois, et. al. etc., et. al., respondents. Leave to appeal, Appellate Court, First District.

You are hereby notified that the Supreme Court today denied the petition for leave to appeal in the above entitled cause.

Very truly yours,

Clell L. Woods,

Clerk of the Supreme Court

APPEAL TO THE SUPREME COURT OF THE UNITED STATES

FROM THE APPELLATE COURT OF ILLINOIS

FIRST JUDICIAL DISTRICT

MARTIN EPSTEIN,	)	Appeal from the
	)	Appellate Court of
Plaintiff-Appellee and	)	Illinois, First
Cross-Appellant-Appellant	)	Judicial District
	)	
vs.	)	There Heard on
	)	Appeal from the
CIVIL SERVICE COMMISSION,	)	Circuit Court of
	)	Cook County
et. al.	)	
	)	Honorable
Defendants-Appellants-	)	Edward F. Healy
Defendants	)	Presiding

PROOF OF SERVICE OF NOTICE OF APPEAL

Take notice that on December 12, 1977, a notice of appeal in the above entitled cause by Martin Epstein, pro se, was filed in the Appellate Court of Illinois, First Judicial District, Case No. 61439.

A true and correct copy of said notice of appeal is served upon the following named parties by depositing copies of the same in the U.S. Mail Box at 53rd and Harper streets, Chicago, Illinois, 60615, first class mail:

Gilbert S. Marchman

Clerk, Appellate Court of Illinois

First District

Richard J. Daley Center, Room 2830

Chicago, Illinois

Mortan N. Finley

Clerk Circuit Court of Cook County

Richard J. Daley Center, Room 801

Chicago, Illinois

Hon. William J. Scott

Illinois Attorney General

160 North LaSalle Street

Chicago, Illinois 60602

Martin Epstein

pro se

5110 South Hyde Park

Chicago, Illinois

60615

(Notary seal

Dec. 12, 1977

Velma L Frye)

CERTIFICATE OF SERVICE

I hereby certify that three true and correct copies of the above and foregoing Jurisdictional Statement and Appendix of Appellant, Martin Epstein, was served on William J. Scott, Illinois Attorney General, 160 North LaSalle Street, Chicago, Illinois, 60602, by depositing copies of the same in the United States Post Office, 221 South Clark Street, Chicago, Illinois, on the 23rd day of December, 1977, properly stamped and addressed.

Martin Epstein

pro se

5110 South Hyde Park Blvd.

Chicago, Illinois 60615

(notary seal

Dec. 23, 1977

Velma L. Frye)

CERTIFICATE OF SERVICE

I hereby certify that three true and correct copies of the above and foregoing Jurisdictional Statement and Appendix of Appellant, Martin Epstein (which have been revised and made compliant with the "Rules of the Supreme Court, Rule 39" from copies submitted December 23, 1977) were served on William J. Scott, Illinois Attorney General, 160 North LaSalle Street, Chicago, Illinois, 60602, by depositing copies of the same in the United States Post Office, 221 South Clark Street, Chicago, Illinois, on the 30th of January, 1978, properly stamped and addressed.

Martin Epstein

Martin Epstein

5110 South Hyde Park Blvd.

Chicago, Illinois 60615

pro se

Subscribed and sworn to before me this 30th day of January, 1978.

Rosemarie Kremske

Notary Public